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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,355	10/12/2005	Paul George McCarthy	32406-212327	5689

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VENABLE LLP  
P.O. BOX 34385  
WASHINGTON, DC 20043-9998

EXAMINER
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VENNE, DANIEL V

ART UNIT	PAPER NUMBER
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3617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/30/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/520,355

Applicant(s)

MCCARTHY ET AL.

Examiner

Daniel V. Venne

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)                       |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application             |
| Paper No(s)/Mail Date <u>1/4/2005</u> .  | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> . |

Continuation of Attachment(s) 6). Other: Foreign Reference cited by examiner.

## **DETAILED ACTION**

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-11, 20-23 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Sato et al. (US 6224439). Sato et al. shows all of the claimed features, including, at least one sensor [160, 215, 224] located between a reservoir (fuel tank) [82] and an internal combustion engine [33] arranged to detect the presence of seawater in the fuel and provide an indication to an operator of a marine craft by an audible and/or visual warning device at more than one location, with each sensor located between an outlet from the reservoir and an inlet to a fuel pump, a fuel filter [86] located between the fuel pump and the engine, low pressure fuel pump [85] connected to an outlet from the reservoir and a high pressure fuel pump [94] connected to the low pressure fuel pump to supply fuel at high pressure to the engine and each sensor located between the outlet from the reservoir and the low pressure fuel pump, a fuel filter located between the low pressure fuel pump and the high pressure fuel pump, each sensor mounted near to the bottom of a water separator (vapor separator) [88] used to separate sea water from the liquid fuel and comprising a closed vessel having an upper wall, lower wall, at least one side wall, and an inlet and outlet connected to the upper wall of the closed vessel, as generally claimed. The warning device may be placed at any appropriate or control panel location on the watercraft.

4. Claim 26 is also rejected under 35 U.S.C. 102(b) as being anticipated by Hagerthy (US 5993675). Hagerthy shows all of the claimed features of the water separator [10, 70], including upper and lower walls, at least one side wall, and a vessel inlet and outlet, as generally claimed.

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5. Claim 26 is also rejected under 35 U.S.C. 102(b) as being anticipated by Montemayor Uzeta (WO 9924709). Montemayor Uzeta shows all of the claimed features of the water separator (Figs. 1-8), including upper and lower walls, at least one side wall, and a vessel inlet and outlet, as generally claimed.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. (US 6224439), in view of Montemayor Uzeta (WO 9924709). Sato et al. shows all of the claimed features, with the exception of at least one baffle plate extending downwardly from the upper wall into the closed vessel at a position between the inlet and outlet locations, a baffle plate extending outwardly from one side wall of the closed vessel in close proximity to the outlet, an air bleed device fitted to the upper wall, drain plug fitted to the lower wall, at least one sensor fitted to one of the side walls of the closed vessel in close proximity to the lower wall, at least one sensor fitted to the lower wall of the closed vessel, and each sensor located such that when sea water reaches a predetermined level in the closed vessel, an indication is provided to the operator, as claimed. Montemayor Uzeta shows all of the excepted features indicated above (Figs. 1-8). Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide a

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water separator with the features disclosed by Montemayor Uzeta with Sato et al. to create the invention as claimed by applicant. The motivation would have been to provide a more effective, efficient means with enhanced flow treatment capacity to separate water and impurities from fuel in the fuel supply of a watercraft with an internal combustion engine.

### ***Conclusion***

11. Claims 24, 25 and 27 are cancelled.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nanami et al. (US 6394860 B1) shows a fuel supply system, including a reservoir (fuel tank) [74], fuel filter [218], low pressure fuel pump [216], high pressure fuel pump [223] and water (vapor) separator [220].

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel V. Venne whose telephone number is (571) 272-7947. The examiner can normally be reached between 7:30AM - 4:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (In USA or CANADA) or 571-272-1000.

*dw*

DVV

25 January 2007

*Jesus D. Sotelo*  
JESUS D. SOTELO  
PRIMARY EXAMINER  
*A. U. 3617*